

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 822

Introduced by Janssen, 15.

Read first time January 08, 2010

Committee: Judiciary

A BILL

1 FOR AN ACT relating to liens; to amend section 52-137, Reissue
2 Revised Statutes of Nebraska; to change provisions
3 relating to construction liens; and to repeal the
4 original section.

5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 52-137, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 52-137 (1) A claimant's lien does not attach and may not
4 be enforced unless, after entering into the contract under which
5 the lien arises and not later than one hundred twenty days after
6 his or her final furnishing of services or materials, he or she has
7 recorded a lien.

8 (2) If a lien is recorded while a notice of commencement
9 is effective as to the improvement in connection with which the
10 lien arises, the lien attaches as of the time the notice is
11 recorded, even though visible commencement occurred before the
12 notice is recorded. A notice of commencement is not effective until
13 recording and, after recording, is effective until its lapse. A
14 notice of commencement lapses at the earlier of its expiration
15 as provided in subsection (2) of section 52-145 or the date it
16 is terminated by a notice of termination as provided in section
17 52-146.

18 (3) If a lien is recorded while there is no recorded
19 notice of commencement covering the improvement in connection with
20 which the lien arises, the lien attaches at the earlier of visible
21 commencement of the improvement or the recording of the lien, but
22 if visible commencement has occurred before or within thirty days
23 after the lapse of the last notice of commencement covering the
24 improvement:

25 (a) The lien attaches at the time the lien is recorded

1 if the lien is recorded within thirty days after lapse of the last
2 effective notice of commencement; or

3 (b) The lien relates back to and attaches thirty-one days
4 after the termination date if the lien is recorded more than thirty
5 days after lapse of the last effective notice of commencement.

6 (4) If new construction is the principal improvement
7 involved and the materials, excavation, preparation of an existing
8 structure, or other preparation are readily visible on a reasonable
9 inspection of the real estate, visible commencement occurs when:

10 (a) Materials are delivered to the real estate to which
11 the lien attaches preparatory to construction;

12 (b) Excavation on the real estate to which the lien
13 attaches is begun; or

14 (c) Preparation of an existing structure to receive the
15 new construction, or other preparation of the real estate to which
16 the lien attaches, is begun.

17 (5) In all cases not covered by subsection (4) of this
18 section, the time visible commencement occurs is to be determined
19 by the circumstances of the case.

20 (6) The claimant shall send a copy of the recorded
21 lien within ten days after recording to (a) the party with whom
22 the claimant contracted, (b) the prime contractor, and (c) the
23 contracting owner. Failure to send this copy shall not void or
24 nullify the lien. The claimant's lien amount may be reduced by
25 damages caused to the prime contractor or contracting owner by any

1 delay or failure.

2 Sec. 2. Original section 52-137, Reissue Revised Statutes

3 of Nebraska, is repealed.